

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

HEARING OFFICER DIRECTIVE

DOCKET NO. 2019-281-S ORDER NO. 2020-65-H

JULY 10, 2020

Hearing Officer: David Butler

DOCKET DESCRIPTION:

Application of Palmetto Utilities, Incorporated for Adjustment (Increase) of Rates and Charges, Terms and Conditions, for Sewer Service Provided to Customers in Its Richland and Kershaw County Service Areas

MATTER UNDER CONSIDERATION:

Motion to Withdraw Petition to Intervene by Lisa Levine, Conditioned Upon Approval and Adoption of Stipulations Between Ms. Levine and Palmetto Utilities, Incorporated

HEARING OFFICER'S ACTION:

The *pro se* Intervenor Lisa Levine moves for leave to withdraw her Petition to Intervene in this case, conditioned upon the approval and adoption of the Stipulations reached between Ms. Levine and Palmetto Utilities, Incorporated ("Palmetto" or "the utility"), dated July 9, 2010. Ms. Levine's Motion states specifically that, should the Commission not approve the Stipulations, the Motion will be null, void and of no effect. The Stipulations also state that, should the Stipulations not be approved and adopted by the Commission, they shall be deemed null, void and of no effect.

A review of the Motion and Stipulations reveals that the documents are inextricably entwined. South Carolina Code Ann. Section 58-3-40 (C) (2015), states that the duties of a Hearing Officer appointed by the Commission include, in part, the ability to "hear and determine procedural motions or other matters not determinative of the merits of the proceedings and made prior to hearing..." Accordingly, under the narrow facts described herein, this Hearing Officer has the ability to rule both on the Motion to Withdraw and the Stipulations. The Motion to Withdraw is a procedural motion. Also, the fact that the payments described in the Stipulations are non-allowable for ratemaking purposes demonstrates that a ruling on the Stipulations described would not, in any way, be "determinative of the merits of the proceedings," and would therefore be amenable to Hearing Officer ruling under the terms of the Hearing Officer statute.

The fate of the Motion to Withdraw clearly depends on approval of the Stipulations. The Stipulations between Ms. Levine and the utility provide, in part, that Palmetto agrees to make an annual contribution of \$50,000 for a period of three years to Wateree Community Actions, Inc. or another appropriate non-profit organization operating in Richland and Kershaw counties for the exclusive purpose of assisting Palmetto's customers with paying their monthly sewer service bills to Palmetto. The document states specifically that for

ratemaking purposes, this annual contribution would be a non-allowable expense. The Stipulations also set criteria for determining when the contributions would be payable. The Stipulations further provide that Ms. Levine agrees to withdraw her petition to intervene, and all papers, matters, or documents that she has submitted in this proceeding and thereby terminate her status as a party of record. Accordingly, Ms. Levine will not appear at any future hearings scheduled in this proceeding, file or seek to file any further papers in this Docket, nor seek relief from any final Order in this matter. The Stipulations contain further terms and conditions.

The Stipulations certainly provide a great benefit to the Palmetto customer base that may need assistance with paying their Palmetto bills, and the payment amounts are non-allowable for ratemaking purposes. Palmetto is to be commended for offering to provide these funds for the Company's customers' bill payments. Accordingly, the Stipulations are approved, however, with one caveat. Whereas, under this ruling, Ms. Levine's "papers, matters, or documents submitted in this proceeding" are deemed withdrawn, the documents will remain in the Docket Management System of the Commission. However, since they are deemed withdrawn, they will not be considered by the Commission in making its decision in this case, nor will they be considered a part of the record evidence for the Commission in the proceeding. This Hearing Officer believes that this treatment by the Commission is equivalent to allowing Ms. Levine to "withdraw all papers, matters, or documents that she has submitted." Her status as a party of record will clearly be terminated, and any material formerly submitted by her will not be considered by the Commission when making its decision on the merits of the case. Under these terms, the Stipulation is approved and adopted.

Turning to Ms. Levine's Motion to Withdraw her Petition to Intervene, said Motion is hereby granted. This Motion was conditioned upon approval and adoption of the Stipulations, which were indeed approved and adopted above.

On a general note, the Hearing Officer wishes to caution the regulated community that the ruling on the Stipulations herein was rendered only because of the very narrow circumstances of this case. The Hearing Officer would not expect to rule on broader matters involving other Stipulations in the future. This ends the Hearing Officer's Directive.